

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IO GROUP, INC., dba a )  
California Corporation Titan) )  
Media, )  
 )  
Plaintiff(s), )  
 )  
v. )  
 )  
JOHN DOE, )  
 )  
Defendant(s). )  
 )  
 )  
\_\_\_\_\_ )

No. C08-1805 MMC (BZ)

**ORDER DENYING ADMINISTRATIVE  
REQUEST TO TAKE DISCOVERY**

Plaintiff has filed an administrative request for leave to take immediate discovery to determine the identity of defendant John Doe. Plaintiff claims defendant has been posting its copyrighted material on his blog. The blog is alleged to be located on blogger.com, a commercial enterprise of Google, Inc. Plaintiff seeks leave to serve a subpoena on Google, Inc. to determine defendant's internet protocol address and to serve a subsequent subpoena on the appropriate ISP provider to determine defendant's identity.

Plaintiff has failed to show good cause for the requested discovery. Essentially, plaintiff is seeking to discover the

1 identity of a person who allegedly posted information on the  
2 internet anonymously. Plaintiff's request implicates John  
3 Doe's privacy and potentially implicates his First Amendment  
4 rights. See e.g. Highfields Capital Mgmt. L.P. v. Doe, 385 F.  
5 Supp. 2d 969 (N.D. Cal. 2005); Sony Music Entm't Inc. v. Does  
6 1-40, 326 F.Supp.2d 556, 562 (S.D.N.Y. 2004). Under such  
7 circumstances, plaintiff must show that there is a need for  
8 the discovery that outweighs John Doe's privacy and potential  
9 First Amendment rights. Here plaintiff's showing is  
10 inadequate.

11 The only declaration submitted in support of plaintiff's  
12 request is from an officer of plaintiff, who uses the name  
13 Keith Webb but states that Webb is a pseudonym that he uses in  
14 place of his true legal name. This suggests that plaintiff is  
15 aware that there may be privacy and First Amendment rights at  
16 issue. Plaintiff makes no showing why it did not try to file  
17 under seal a declaration signed by the declarant, using his  
18 true name.

19 In any event, "Webb's" declaration does not explain other  
20 than in superficial terms what infringement John Doe is  
21 supposed to have committed. Instead, it references the  
22 allegations of the complaint, which is also unsworn. The  
23 signature page appears to be from a different document than  
24 the rest of the declaration, paragraph 13 begins on page 3  
25 and page 4 and the typefont is different. This undermines the

26 ///

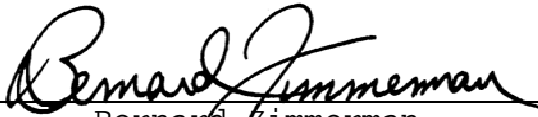
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1 integrity of the skimpy declaration.

2 For the foregoing reasons, plaintiff's request is **DENIED**.

3 Dated: April 28, 2008

4   
5 Bernard Zimmerman  
6 United States Magistrate Judge  
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